MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 3, 2018 / 2019

ULK2612 – LAW OF BANKING

(All Sections / Groups)

31 MAY 2019

Reading Time: 9.00 a.m. – 9.15 a.m.
(15 Minutes)
Answering Time: 9.15 a.m. – 12.15 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 3 pages with 4 Questions only.

3. Attempt **FOUR** questions. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are allowed to bring into Examination Hall CLEAN and ORIGINAL copies of: (i) Bills of Exchange Act 1949 of Malaysia;
(ii) Financial Services Act 2013;
(iii) Anti Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001; and
(iv) Contracts Act 1950.
"Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

5. Please write all your answers in the Answer Booklet provided.

QUESTION 1

It is important to ascertain whether a person is or is not a customer of the bank. With reference to the Financial Services Act 2013 and supported by relevant case law, explain who is the customer of the bank and what are the required elements to determine the customer of the bank.

(Total: 25 marks)

QUESTION 2

Steward and his father, Alexander, opened a joint current account at Teguh Bank Berhad with the mandate of operation "Either to sign/operate the account". This joint account has a credit balance of RM50,000-00. Cindy, Alexander's wife calls Teguh Bank Berhad to enquire about the credit balance in that joint account.

(a) Explain the concept of a joint current account in a bank.

(12 marks)

(b) With reference to the Financial Services Act 2013, discuss whether Teguh Bank Berhad can reveal to Cindy the credit balance.

(13 marks)

(Total: 25 marks)

QUESTION 3

(a) A teller of Development Bank Bhd. ('DBB'), namely Mr. Zil alerted his manager that an 18-year old Mamat wanted to deposit RM100,000-00 into his savings account which usually had low balances averaging RM1,000-00. When the manager of DBB queries about the source of the funds, Mamat explained that it was business commission which he received for various online businesses run by him. Mamat further instructs that the money is to be remitted to a relative in Thailand.

Evaluate the relevant statutory obligations, if any, that Development Bank Bhd. should undertake.

(12 marks)

Continued...

(b) Mr. and Mrs. Brian Shan have been married for ten years. Recently, Mr. Brian is facing a financial difficulty in his catering business. Mr. Brian has been forging his wife's signature on cheques that were paid by the bank. Mrs. Brian discovered the forgeries and threatened to reveal them to the bank, but later agreed not to do so after Mr. Brian told her that the money was used to pay off his trade creditors who had been threatening to sue him for bankruptcy.

Six (6) months later, Mrs. Brian discovered that Mr. Brian had in fact used the money to dabble in the stock market and had suffered substantial losses. After a heated quarrel, Mr. Brian left home and could not be contacted. Mrs. Brian informs the bank that her husband had in fact been forging her signature on the cheques. She demands the bank to repay the money that had been paid on the forged cheques.

Examine, if any, the bank's and Mrs. Brian's liabilities on the forged cheques.

(13 marks)

(Total: 25 marks)

Answer EITHER Question 4 (a) OR Question 4 (b)

QUESTION 4 (a)

On 5 March 2019, Victor Developers Sdn. Bhd. (VDSB) obtained a loan for RM10 million from Berjaya Bank Bhd. (BBB) secured by a third party charge (consented to by the landowners) on the land (valued at RM15 million) to be developed. The loan is to be used to develop a project called "Mega Development Township" ('the project') which is expected to generate a return of 20% per annum. It was further guaranteed by Abi, Bibi, Cici and Didi, the directors of VDSB jointly and severally. The loan facility was dated 5 March 2019 whilst the guarantee was dated 7 May 2019.

Due to economic downturn, the project faced numerous problems and the loan was recalled. BBB sued VDSB and the guarantors for recovery of the loan plus interest and costs. On 15 April 2019, BBB obtained judgment against VDSB and the guarantors. Meanwhile, Abi resigned as Managing Director of VDSB on 14 April 2019 and claims that he is not liable on the guarantee. Bibi, Cici and Didi claim that they were forced to sign the guarantee by Abi and further if Abi is not liable on the guarantee, then their liability should also cease. They further claim that the bank should have proceeded to foreclose on the charge before proceeding to recover against the guarantors.

Determine the guarantors on their liability.

(Total: 25 marks)

Continued...

OR

QUESTION 4 (b)

Analyse the bank-customer relationship in the light of banks' duties owed to their customers. What recourse may a customer pursue if banks deny their liability when there is a breach of duties by the banks?

(Total: 25 marks)

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